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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR        | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|-----------------------------|---------------------|------------------|
| 10/722,267   | 11/25/2003  | Paul Joseph O'Dea           | 137991 (553-1063US) | 8624             |
| 45436 7590 06/02/2009<br>DEAN D. SMALL<br>THE SMALL PATENT LAW GROUP LLP<br>225 S. MERAMEC, STE. 725T<br>ST. LOUIS, MO 63105 |             |                             |                     |                  |
| EXAMINER<br>COBANOGILU, DILEK B  |             |                             |                     |                  |
| ART UNIT<br>3626   |             | PAPER NUMBER                |                     |                  |
| NOTIFICATION DATE<br>06/02/2009  |             | DELIVERY MODE<br>ELECTRONIC |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docket@splglaw.com

# Office Action Summary

**Application No.**

10/722,267

**Applicant(s)**

O'DEA ET AL.

**Examiner**

DILEK B. COBANOGU

**Art Unit**

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment received on 2/25/2009.

Claims 23-24 are newly added. Claims 1-24 remain pending in this application.

### ***Specification***

2. The objection to abstract has been withdrawn since Applicant has amended the abstract and it is now more than 50 words.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10, 12-22 and 23 are rejected under 35 U.S.C. 102(e) as being unpatentable by Mullen et al. (hereinafter Mullen) (U.S. Patent No. 6,689,055 B1).

A. Claims 1-10, 12-22 have not been amended. As such, claims 1-10, 12-22 are rejected for the same reasons given in the previous Office Action (paper numbers 2-7), and incorporated herein. Applicant's arguments with respect to these claims will be addressed below in the section of Response to Arguments.

B. Newly added claim 23 recites a method in accordance with claim 1 further comprising providing electronic notification of at least one of an update and change to the at least one ultrasound scan (Mullen; col. 1, line 66 to col. 2, line 21, col. 8, line 66 to col. 9, line 45, col. 9, line 46 to col. 10, line 8).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen et al. (hereinafter Mullen) (U.S. Patent No. 6,689,055 B1) in view of Robin (US Patent Publication No. 2002/0005935 A1).

A. Claim 11 has not been amended, and Applicant does not appear to argue the separate patentability of this claim. As such, claim 11 is rejected for the same reasons given in the previous Office Action (paper numbers 7-8), and incorporated herein.

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mullen et al. (hereinafter Mullen) (U.S. Patent No. 6,689,055 B1) in view of Examiner's Official Notice.

A. Newly added claim 24 recites a method in accordance with claim 1 further comprising providing electronic notification after an expiration of a predetermined time period for the at least one ultrasound scan.

Mullen does not explicitly disclose providing electronic notification after an expiration of a predetermined time period for the at least one ultrasound scan, per se Mullen teaches electronic notification of completion of a scan (Mullen; col. 6, lines 3-15).

However, the Examiner takes official notice that it was well known in the electronic medical recording arts to provide a notification when a predetermined time period expires for a certain work. The motivation would have been to alert the medical providers.

### ***Response to Arguments***

8. Applicant's arguments filed 02/25/2009 have been fully considered but they are not persuasive. Applicant's arguments will be addressed below in the order in which they appear.

A. In response to Applicant's argument about Mullen does not teach "providing electronic notification of a completion of one or more scans during an ultrasound examination"; Examiner respectfully submits that Mullen teaches In accordance with the preferred embodiment of the present invention, the system controller begins to record keystroke data as soon as the system power is turned on. Power is turned on by pushing switch 8 on the system console up. While the

power is turned on, the system controller will record each probe activation (as previously described) as well as each operation of any other operator control during an examination. The other operator controls are located on the control panel 16, which is shown in detail in FIG. 4. In col. 5, lines 37-46; All of the foregoing keystrokes are time-stamped and encoded by the system controller, and the encoded keystroke data is stored in electronic memory... Pressing the DICOM End Exam button 132 sends DICOM jobs to remotely located devices at the end of an exam." In col. 6, lines 3-15. Therefore Mullen teaches an electronic notification of completion (end) of a scan.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DILEK B. COBANOGLU whose telephone number is (571) 272-8295. The examiner can normally be reached on 8-4:30.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher L. Gilligan can be reached on (571) 272-6770. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/D. B. C./  
Examiner, Art Unit 3626  
5/27/2009

/Gerald J. O'Connor/  
Supervisory Patent Examiner  
Group Art Unit 3686